

DEPARTMENT OF THE NAVY
BUREAU OF NAVAL PERSONNEL
WASHINGTON, D.C. 20370-5000

IN REPLY REFER TO

BUPERSINST 12990.1
Pers-653F
18 JAN 1995

BUPERS INSTRUCTION 12990.1

From: Chief of Naval Personnel

Subj: OPERATION OF NAVY CIVILIAN MORALE, WELFARE, AND RECREATION
(MWR) ACTIVITIES

- Ref:
- (a) SECNAVINST 7548.1, DON Civilian Employee Morale, Welfare and Recreation (MWR) Activities and Supporting Nonappropriated Fund Instrumentalities (NAFIs)
 - (b) DODR 1015.8-R Civilian Morale, Welfare, and recreation MWR) Activities and Supporting Nonappropriated Fund Instrumentalities (NAFIs) Regulation
 - (c) SECNAVINST 5300.22C, Navy and Marine Corps Personnel Policy for Nonappropriated Fund Instrumentalities (NAFIs)
 - (d) NAVMILPERSCOMINST 5300.1, Supplement to the DON and Marine Corps Personnel Policy Manual for Nonappropriated Fund Instrumentalities
 - (e) OPNAVINST 4535.1A, Vending Facility Program for the Blind on Federal Property
 - (f) BUPERSINST 7043.1A, Procurement Policy for Bureau of Naval Personnel Nonappropriated Fund Activities
 - (g) DODR 5500.7 Standards of Conduct
 - (h) SECNAVINST 1700.11C, Alcoholic Beverage Control; Possession, Sale and Consumption of within Military Installations under Naval Jurisdiction
 - (i) BUPERSINST 7010.13, Cost Control Manual for Messes and Consolidated Package Stores Ashore
 - (j) BUPERSINST 1710.13A, Navy Club Food, Beverage, and Entertainment Operations
 - (k) NAVSO P-3520, Financial Management Policies and Procedures for Morale, Welfare and Recreation Programs
 - (l) BUPERSINST 7510.1, Local Fiscal Oversight and Reviews of Nonappropriated Fund Instrumentalities (NAFI's)
 - (m) NAVCOMPT ltr 7200/4424 of 24 May 90, Prompt Payment Act Procedures
 - (n) NAVMILPERSCOMINST 5890.1, Risk Management Manual For Navy Recreation Services Nonappropriated Fund Activities
 - (o) BUPERSINST 1710.11B, Navy Recreation Program Operational Policies

Encl: (1) Regulations, Policies, and procedures for the operation of Navy Civilian Morale, Welfare and Recreation (MWR) Activities.

1. Purpose. To set forth policies, regulations, and procedures for establishment, operation, and administration of Navy civilian MWR activities.

2. Policy and Scope. The Chief of Naval Personnel (CHNAVPERS) was assigned Program Manager responsibilities for Navy civilian MWR activities by the Assistant Secretary of the Navy (Manpower and Reserve Affairs). The provisions of this instruction apply to the administration and operation of Navy civilian MWR activities.

3. Discussion. This instruction amplifies the policies and procedures for Navy civilian MWR activities contained in DoD Civilian Employee Morale, Welfare and Recreation (MWR) Activities and Supporting NAFIs Regulations, 1015.8-R implemented by reference (a). Any exceptions to the provisions of this instruction or reference (a) require prior approval by the Chief of Naval Personnel.

4. Action. Command authorities shall ensure that civilian MWR activities are operated in accordance with the provisions of reference (b) as amplified by this instruction.

5. Form Availability. Forms may be obtained through normal supply channel following NAVSUP P-2002.

<u>Form</u>	<u>Title</u>	<u>Stock Number</u>
NAVPERS 1746/19 (5-90)	Private Party Contract	0106-LF-017-4695
NAVPERS 7010/2 (9-82)	Recreation Fund	0102-LF-070-1011
	Financial Statement	
NAVPERS 7010/11 (10-88)	Daily Activity Record	0106-LF-070-1056
	Summary	
NAVPERS 7010/12 (10-88)	General Journal Voucher	0106-LF-070-1061
NAVCOMPT 735	Budget Record	0104-LF-701-2400
NAVCOMPT 2276 (8-81)	Request for Contractual	0104-LF-004-5100
	Procurement	

<u>Form</u>	<u>Title</u>	<u>Stock Number</u>
NAVCOMPT 2277 (8-81)	Public Voucher	0104-LF-703-2770
DD Form 1342 (5-78)	DOD Property Record	0102-LF-010-1900

The following forms can be obtained from the General Service Administration Office:

SF 33 (4-85)	Solicitation, Offer, and Awards	7540-01-152-8064
SF 97 (9-61)	Certificate of Release of a Motor Vehicle	7540-00-634-4047
SF 1034 (1-80)	Public Voucher for Purchases and Services other than Personal (FLAT)	7540-00-634-4206
SF 1034 (1-80)	Public Voucher for Purchases and Services other than Personal (4-PART SNAPOUT)	7540-00-900-2234

Distribution:

Commanding Officers with Navy Civilian MWR Activities Under Their Cognizance

Human Resource Offices administering Navy Civilian MWR Activities

Copy to:

(See next page)

BUPERSINST 12990.1

18 JAN 1995

Copy to:

SNDL	21A	(Fleet Commanders in Chief)
	A2A	(CNR)
	A3	(CNO)
	42RR	(COMNAVAIRESFOR)
	FE1	(COMNAVSECGRU)
	FG1	(COMNAVCOMTELCOM)
	FH1	(BUMED)
	FKA1A	(COMNAVAIRSYSCOM)
	FKA1C	(COMNAVFACENGCOM)
	FKA1F	(COMNAVSUPSYSCOM)
	FKA1G	(COMNAVSEASYSYSCOM)
	FT1	(CNET)
	FJA1	(CHNAVPERS [Code Pers-65, only]) (100)

Stocked:

BUPERS Morale, Welfare, and Recreation Training Unit

Bldg 1489

NAS Patuxent River, MD 20670 (500 copies)

TABLE OF CONTENTS

	<u>PAGE</u>
DEFINITIONS	iv
CHAPTER 1 - GENERAL PROVISIONS	1-1
Paragraph 1-1 Purpose	1-1
1-2 Responsibilities	1-1
1-3 Establishment and Disestablishment	1-4
1-4 Operating Principles	1-5
1-5 Legal Status	1-6
1-6 MWR Advisory Council	1-6
CHAPTER 2 - AUTHORIZED PROGRAMS AND ACTIVITIES	2-1
Paragraph 2-1 Types of Civilian MWR Activities	2-1
2-2 Authorized Activities	2-2
2-3 Bingo	2-4
2-4 Unauthorized Activities	2-5
CHAPTER 3 - FINANCIAL MANAGEMENT	3-1
Paragraph 3-1 Financial Posture	3-1
3-2 Financial Management	3-1
3-3 Reporting and Analysis	3-1
3-4 Funding of Program Managers Responsibility	3-1
3-5 Financial Ratio Analysis	3-4
3-6 Audits and Fiscal Oversight	3-5
3-7 Prompt Payments	3-5
3-8 Insurance	3-5
CHAPTER 4 - GENERAL SUPPORT	4-1
Paragraph 4-1 Personnel	4-1
4-2 Standards of Conduct	4-1
4-3 Training	4-1
4-4 Membership in Professional Associations	4-1
4-5 Procurement Policies	4-1
4-6 Civilian MWR Vehicles	4-1
4-7 Entertainment	4-1

APPENDICES

	<u>DESCRIPTION</u>	<u>PAGE</u>
Appendix A	- Triennial Review of Civilian MWR Activities	A-1
Appendix B	- Sample Entertainment Contract	B-1
Appendix C	- Contracting and Accounting Procedures for Vending Machines	C-1

DEFINITIONS

1. Central Successor Civilian NAFI. The Successor Civilian NAFI at Departmental level that has been designated to provide financial support and assistance to all civilian NAFIs within or assigned to the Department; to receive and retain or redistribute, as appropriate, excess or residual assets of civilian NAFIs; and to assume any residual liabilities of a dissolved civilian NAFI. The Bureau of Naval Personnel (Pers-65) manages the Navy Successor Civilian Central Fund.

2. Civilian Employee Morale, Welfare, and Recreation (MWR) Activity. An MWR activity established for the comfort, pleasure, contentment, and mental and physical improvement of DoD civilian employees and other authorized patrons. These activities consist of recreational and free-time, self-development, food services and other resale, and general welfare.

3. Civilian Employee Nonappropriated Fund Instrumentality (NAFI). An integral DoD organization that performs an essential government function. A civilian NAFI acts in its own name in providing funding support to Category II and IV MWR activities for civilian employees and other authorized patrons. It is established and maintained unilaterally or jointly by a military department. As a fiscal entity, each NAFI maintains custody of and control over its nonappropriated funds. It is not incorporated under the laws of any state or the District of Columbia and it enjoys the legal status of an instrumentality of the United States.

4. Custodian. An individual appointed by written authority to a post of responsibility and trust to exercise administrative and executive control of a civilian NAFI and charged with the accountability for the nonappropriated fund resources.

5. Navy Installation. For the purposes of this instruction, real property controlled by the Department of the Navy or occupied by Navy personnel, such as a base, site, building or other location.

6. Nonappropriated Funds (NAFs). Cash and other assets received by a NAFI from sources other than monies appropriated by the Congress of the United States. NAFs are government funds and are used for the collective benefit of the Navy personnel who generated them. These funds are separate and apart from funds recorded in the books of the Treasurer of the United States.

18 JAN 1995

7. On Premises Consumption. Use or consumption within the confines of the Navy installation. Refers to sales restrictions of food, beverages, tobacco, or other consumable, expendable products to quantities of less than a carton, box, or other multi-item container. Specifically excludes authorization for an item to be sold for off-premises consumption.

Chapter 1 - General Provisions

1-1. Purpose. This regulation amplifies the policies and procedures governing the establishment, operation, control and dissolution of civilian Nonappropriated Fund Instrumentalities (NAFIs) contained in reference (a). Civilian NAFIs are functions of the Navy Department and financially support the Morale, Welfare, and Recreation (MWR) programs developed for DOD civilian employees, as authorized by reference (b). These programs and activities include employee food and other resale, and recreation services to enhance the quality of work life at DOD installations.

1-2. Responsibilities

a. Chief of Naval Personnel (CHNAVPERS). CHNAVPERS has been assigned Program Manager responsibilities for Navy civilian MWR activities by the Assistant Secretary of the Navy (Manpower and Reserve Affairs). These responsibilities include:

(1) Oversight, review, and evaluation of the total program, including operations, financial management, and civilian personnel.

(2) Administrative support for employee benefits program (e.g., retirement system, worker's compensation, health insurance, unemployment compensation).

(3) Updating appropriate regulations/instructions.

(4) Authority to approve establishment/disestablishment of civilian NAFIs.

(5) Conduct of audits and review of audit reports submitted by individual NAFIs.

(6) Management and control of Navy Central Civilian Fund.

(7) Distribution of the Central Fund nonappropriated assets among civilian NAFIs as appropriate for their collective interests.

(8) Training support for civilian NAFI employees, supervisors, and managers.

b. Chain of Command. The chain of command is responsible for the operation of civilian MWR activities serving Navy civilian employees. This includes continual review to ensure their

effectiveness to the same extent as all other elements of command responsibility. Civilian MWR activities shall be included in command inspections conducted in accordance with existing instructions.

c. Commanding Officer (CO)

(1) The CO of the host installation is responsible for the administration, supervision, and operation of the civilian MWR program serving civilian personnel assigned to the installation and its tenant commands. COs administering civilian MWR activities must ensure that programs are properly established, administered, reviewed or audited, and operated in a safe and efficient manner. They have the same responsibility for the proper administration of civilian MWR programs and funds as for any other functional element of their command. They are responsible for the financial condition of the activity, including solvency, stability, and the disposition of civilian MWR funds.

(2) At installations with more than one type of civilian NAFI (e.g., a civilian cafeteria and a civilian recreation fund), the financial integrity of each type shall be maintained. The funds may not be combined nor consolidated into a single NAFI, military or civilian. However, this does not preclude combining management of these separate programs under a single civilian MWR manager. In administering civilian MWR activities, redistribution of civilian NAFI funds to military NAFIs, and vice versa, is prohibited (reference (c) applies).

(3) In carrying out the Executive Control and Essential Command Supervision functions (ECECS), COs may utilize one of the following as the command liaison office for civilian MWR activities:

(a) General oversight of civilian MWR activities may be assigned to the Industrial Relations/Civilian Personnel Office.

(b) On installations with a military MWR department, assignment of the military MWR department for general oversight and support of civilian MWR activities on a mutually agreed basis is encouraged. However, different types of civilian MWR activities may not be combined or consolidated into a single NAFI, military or civilian. Civilian MWR programs should complement, not compete with, military MWR functions authorized and available for use by civilian employees.

(4) COs shall complete the review in appendix A at least triennially to determine the need for civilian employee MWR services, activities, and supporting civilian NAFIs.

(5) COs should provide authorized APF support to civilian MWR programs to the extent possible. Authorized support is delineated in reference (b) and includes available and useable surplus or excess Government facilities and equipment.

(6) COs are to appoint and assure proper orientation of civilian NAFI custodians; provide for appointment or election of civilian NAFI advisory boards; and approve or otherwise act on minutes of advisory council/board of governors meetings.

d. Use of Official Time by Civilian Employees. The use of official duty time by civilian employees for management support to civilian MWR activities and NAFIs is authorized on a selective and occasional basis. Examples of duties which fall within the definition of Executive Control and Essential Command Supervision (ECECS) are contained in reference (a). Serving as a member of a civilian NAFI board or council is considered part of ECECS and may be included in official position descriptions. The CO will determine whether the civilian MWR activity will be managed on a collateral duty basis or whether the fund will employ a custodian (fund manager).

e. Fund Custodians (Fund Managers)

(1) Each civilian NAFI will be administered by a fund custodian appointed by the commanding officer. The custodian will follow the guidance contained or referenced herein, furnished by the advisory council, and provided by the commanding officer. Custodians will normally be civilian employees. Since they are responsible for the financial affairs of the fund, they should have a working knowledge of accounting principles and be capable of managing funds.

(2) The Dual Compensation Act prohibits full-time civilian APF or NAFI employees with a scheduled tour of 40 hours per week from being employed in an additional paid position by an instrumentality of the U. S. Government (e.g., a civilian NAFI). A full-time APF or NAFI civilian employee of the United States Government may be assigned collateral duties as fund custodian but may not be given additional compensation for these additional duties.

18 JAN 1995

(3) A nonappropriated fund employee may be employed by the civilian MWR activity to serve as custodian (fund manager).

(4) Personnel charged with the audit or inspection of NAFIs or whose duties entail the disbursement of public funds will not be appointed custodian or assist in custodian duties.

(5) If the custodian is to be absent for more than 30 but not more than 60 days, the commanding officer may appoint an acting or interim custodian to conduct the operation of the fund.

(6) Personnel responsible for custody of funds of nonappropriated fund activities will be bonded by the NAfi concerned.

1-3. Establishment and Disestablishment

a. Establishment. A civilian NAfi shall be established only upon the written authorization of the Bureau of Naval Personnel (Pers-65). The type of information to be included in a request for establishment is outlined in reference (b). Requests for establishment must be submitted via the appropriate chain of command. Under normal conditions, the host command is responsible for administering civilian MWR programs for the civilian employees of the installation and its tenant commands. Unless specifically authorized by BUPERS (Pers-65), separate civilian MWR activities/NAfis shall not be operated by tenant commands or activities. In those instances where a separate civilian MWR program is requested for a tenant command, the special circumstances/justification for such action must be included in the request for establishment. In addition to the normal chain of command, the request must be forwarded via the host command.

b. Disestablishment. Civilian NAfis shall be disestablished in writing by BUPERS (Pers-65). Requests for disestablishment must be submitted to BUPERS (Pers-65) via the appropriate chain of command. Redistribution of nonappropriated fund assets will be addressed by BUPERS (Pers-65). Redistribution of civilian NAfi funds to military NAfis, and vice versa, is prohibited by reference (c). When disestablishment of a civilian NAfi is contemplated, the commanding officer, through the custodian and advisory board, will take action to ensure against dissipation of assets, unnecessary expenditures, and other wasteful actions. Disbursements will be limited to the most essential operating expenses; future commitments will be cancelled; and contractual agreements phased out, canceled, or renegotiated, as appropriate. The objective in conserving the

assets of the NAFI at this time is to ensure continued use by other civilian NAFIs within the second echelon command, or by the civilian NAFI system.

1-4. Operating Principles

a. Vending Facility Program for the Blind. The provisions of the vending facility program for the blind on Federal property (frequently referred to as the Randolph-Sheppard Act) apply to civilian MWR activities in the 50 states and the District of Columbia. Administrative policy guidance and procedures for the operations of the vending facility program for the blind with the Navy are contained in reference (e). In many instances, profits generated by vending machines operated by or on behalf of civilian MWR programs are subject to income sharing with the state agency for the blind. Income from vending machines at any site, installation, or facility where the total of the vending machine income from all such machines at such site, installation, or facility does not exceed \$ 3,000 annually is exempt from income sharing.

b. Federal Civilian Employees to Benefit. Civilian employee MWR programs and activities are established and operated to serve the needs and interests of all Federal employees on DoD installations. MWR/NAFI programs are also intended to contribute to the recruitment and retention of the civilian work force. Employee benefits are derived through participation in civilian MWR programs. Neither the individuals served, the base on which located, nor the second echelon command have any proprietary interest in the funds, their assets, or their income. Civilian NAFIs will not engage in unauthorized fund-raising efforts nor make contributions to unapproved charitable causes.

c. Health and Fitness Programs. Employee participation in health and fitness activities conducted either on base or in the civilian community is encouraged and supported. The MWR activities addressed herein can be effective tools in the implementation of civilian employee health promotion and fitness programs on the installation.

18 JAN 1995

1-5. Legal Status. Civilian MWR activities and their supporting NAFIs are integral parts of the Navy Department and the NAFIs are instrumentalities of the United States. As such, they are entitled to the immunities and privileges enjoyed by the Federal Government under the Constitution, Federal statutes, established principles of law, and international treaties and agreements.

1-6. Civilian MWR Advisory Councils

a. Duties. Civilian employees, elected or appointed to a representational body or council, shall provide overall direction and/or broad recommendations in the management of the civilian MWR program, its activities, and its supporting NAFI. These boards or councils shall not be involved in day-to-day operations of the NAFI. A separate council may be appointed for each civilian NAFI or a combined board may be established to maintain oversight on more than one NAFI. The civilian MWR board or council is responsible for reviewing and recommending to the commanding officer, budgets, plans, policies, and procedures for the operation of the NAFI. Council members must be full-time civilian employees of the activity and may not be contractor employees. Minutes of each meeting shall be submitted to the commanding officer or the commanding officer's designee for approval. The commanding officer will assign to the board or council responsibility for developing, recommending, and overseeing plans, policies, and procedures of the NAFI within the provisions of these regulations. At the discretion of the commanding officer, members of the civilian MWR advisory council may be elected, appointed, or a combination thereof.

b. Composition. The civilian council/board will choose a chairperson and a recorder from its voting membership. The custodian or his representative may serve as the recorder without vote. The commanding officer may augment the board with non-voting attendees with special expertise; e.g. legal, procurement, financial management, military MWR employees, etc. Individuals involved in the audit or inspection of the NAFI may not serve as members of the civilian MWR council/board.

c. Involvement. A council/board may be formed for each civilian NAFI. A single combined civilian NAFI council/board may be established to maintain oversight of the individual NAFIs; however, the financial integrity of each civilian MWR activity shall be maintained. In the event there are no military MWR activities available and the civilian NAFI supports both civilian and military MWR programs, a minimum of one military member will be appointed to serve on the civilian MWR council/board. The number of military

18 JAN 1995

council/board members may be increased in the direct proportion of the installation military population to the Federal work force of APF and NAFI employees.

d. Compensation. No individual will receive any compensation or special benefits/consideration for serving as a member of a civilian MWR council/board.

Chapter 2 - Authorized Programs and Activities

2-1. Types of Civilian MWR Activities. Civilian MWR activities are categorized based on their functional and financial characteristics. APF entitlement to civilian MWR activities is contained in reference (b).

a. Civilian revenue-producing activities. Includes those functions of MWR activities and programs that have the capability of producing revenue through resale and services to authorized patrons. The food service portion of civilian revenue-producing activities is considered an essential MWR function. Excluded from this is the resale of products outside mealtime or workshift food services, such as snacks, confections, refreshments, beverages and like items. Although civilian employee food and vending services are the major revenue producers, other MWR activities are included when goods and services, directly related to the purpose of the activity, are sold. These activities receive only common APF support. Each activity must generate sufficient NAF income to be operationally self-sustaining. The revenue-producing activity should also generate sufficient overall income to disburse a budgeted portion to the civilian morale and recreation activity. These activities are Category II NAFI's as defined in reference (b).

b. Morale and Recreation Activities. Includes those functions of activities and programs that enhance the morale of civilian employees by promoting a sense of well-being through on-base physical and mental self-development programs of a recreational nature. Although these Category IV activities may generate limited income from fees and charges incidental to their operation, they are largely dependent on the NAF support provided by the civilian revenue-producing Category II activity and limited APF support as authorized in reference (b). The availability, convenience, and adequacy of private and public MWR resources in the local communities where Federal civilian employees live are key factors in developing on-base civilian MWR programs. At Naval installations with a small military population where military MWR facilities are not readily available, civilian MWR activities should include assigned military personnel in their programs.

c. Contract Operations. The command may contract out some or all of the civilian MWR resale operations; e.g., food service operations, food service and vending machine operations, vending machines operations only, etc. Contracts will be processed in accordance with reference (f). In soliciting contracts for food service and/or vending machine operations, the provisions of the Vending Facility Program for the Blind on Federal Property as

addressed in reference (e) must be thoroughly reviewed and followed where applicable. The local Navy Exchange will be included as a potential contractor for vending machine service for any civilian NAF activity. Additional information on contracting and sample contracts are contained in Appendix C.

2-2. Authorized Activities. Unless otherwise authorized, civilian NAFI resale operations (including civilian food services and vending machines located in civilian recreation facilities) are to be conducted by civilian revenue-producing activities. The need for civilian MWR activities to generate funds to finance their programs is recognized; however, in conducting resale activities, it is not intended or desired to foster undue competition between civilian and military MWR activities or the Navy Exchange. (For example, the offsetting of a portion of the cost of theater tickets from the civilian recreation activity is common practice but these reduced price tickets should be limited to authorized civilian employees, which includes DOD tenant activities and agencies on the installation. When the military MWR on the installation offers the same theater tickets for sale but without the offset, then the civilian outlet should charge military personnel the same price as at the military ticket outlet.) Civilian MWR activities may engage in the following programs and activities when approved by the commanding officer:

- a. Operating recreation centers or employee lounges.
- b. Offering intramural athletics and sports programs; participating in industrial leagues of the civilian community.
- c. Providing group activities serving special recreational, social, hobby, or occupational interests of a limited number of employees, e.g., stamp clubs, square dancing, aerobics, etc. The opportunity for participation, however, must be extended to all interested employees. Some groups may be organized on a one-time or temporary basis for a particular purpose such as tours, game attendance, or entertainment events.
- d. Holding contests for awards and prizes in conjunction with programmed MWR activities, subject to the conditions in reference (g). In scheduling any event, the provisions of reference (g) prohibiting any gambling activity (including lotteries or pools, games for money or property, or sales or purchases of number slips or tickets on government installations) must be considered.

e. Subsidizing or offsetting the cost of social activities such as dances, parties, and picnics, dinner-theaters, etc. However, the cost of alcoholic beverages at these events must be borne by the individuals concerned. Nonappropriated funds shall not be used to subsidize alcoholic beverages.

f. Awarding of door prizes at special events, but neither cash nor alcoholic beverages shall be used as prizes.

g. Participating in installation-wide events. These may be patriotic, historical, cultural, or of similar themes.

h. Providing retirement mementos, provided the cost of an individual memento does not exceed \$ 50 and is provided to everyone who retires. Such mementos are not considered as falling within the prohibitions on personal gifts or benefits from NAFIs as outlined in reference (g).

i. Providing items for the workforce, e.g., microwave ovens to be placed in shops/buildings for employee use, books and magazines for on-base circulating libraries, etc.

j. Offering preventive medicine "Wellness Programs". These must be essential and approved by local medical officers in accordance with policies established by the Surgeon General of the Navy, but for which appropriated funds are not authorized. However, civilian NAFs will not be used to purchase serum or otherwise provide an immunization program for civilian employees. This policy is based on potential liability problems that may arise regardless of signed releases.

k. Offering merchandise or services necessary to participate in a civilian activity (e.g., golf items at a golf course, bowling items at bowling lanes, etc). Collecting participation fees and charges is not considered a resale function.

l. Holding occasional fund-raising activities oriented to seasonal observances such as the sale of holiday cards, Federal almanacs, and calendars.

m. Sponsoring occasional cultural events featuring sales of items such as antiques, hand-crafted collector or hobby items, or home-prepared foods (liability insurance required to be obtained by the sponsoring NAFI).

n. Giving expressions of thoughtfulness, sympathy, or condolence to an employee or a member of his/her immediate family in the event of a serious illness or death. An expenditure for an individual occasion shall not exceed \$50 or be in cash. The expressions may be in the form of donations to religious, charitable, or similar organizations designated by the family. Such expressions are not considered prohibited personal gifts.

o. Operating a Recycling Program, following OPNAVINST 5090.1.

p. Offering bingo at civilian MWR activities within the U.S. on naval installations that have been fully ceded to the U.S. Government; or on installations not fully ceded but where bingo playing is allowed within the local civil jurisdiction. Civilian MWR bingo programs shall not compete with military MWR bingo programs. Regulations relating to bingo are contained in paragraph 2-3.

2-3. Bingo

a. Playing of Bingo. Civilian MWR activities are authorized to conduct bingo subject to the regulations and controls contained in this paragraph. Special groups (e.g., wives clubs, advisory groups, private clubs/groups) are not authorized to sponsor or operate bingo in civilian MWR activities. Bingo is authorized on naval installations within the U.S., its territories and possessions, which are fully ceded to the U.S. Government and on those installations which are not fully ceded where the playing of these games is not prohibited by the host state. Outside the U.S., its territories and possessions, the playing of bingo is at the direction of the area commander.

b. Regulations. The playing of bingo is subject to the following regulations:

(1) Participation in this activity will be limited to eligible patrons and up to three bona-fide guests per patron.

(2) Employees, fund managers, and direct line supervisors of the activity sponsoring bingo and their immediate family members may not take part in the bingo game or accept prizes. Commanding officers may impose additional local restrictions regarding those eligible to play bingo. Employees of one NAFLI activity may participate in bingo sponsored by another activity if otherwise eligible. This also applies to volunteers serving as bingo callers and monitors.

(3) Bingo prizes may be cash or merchandise.

(4) At installations in the U.S., its territories or possessions where the playing of bingo is authorized, the cash/merchandise prizes or a combination thereof may not exceed the following amounts:

(a) Total cash prizes of regular games are not to exceed \$2,000 per session, but may be increased to \$10,000 once per quarter.

(b) A jackpot may start at \$1,000 and progress to \$5,000.

(c) A single merchandise prize not to exceed \$10,000 may be awarded by not more than four times per year.

(5) At installations outside the U.S., its territories or possessions, area commanders may establish lower/standard prize amounts for all bingo games, not to exceed the above amounts.

(6) When there is more than one winner of a prize, the cash will be divided equally among the winners. Unless otherwise agreed to by the individuals concerned, merchandise prizes will be awarded to the person who wins a coin toss.

(7) Bingo winners will sign their names and personal identification data on the bingo activity sheet before receiving prizes. Guests will include the name of their sponsor.

(8) Playing of bingo may be included in advertisements but there should be no mention of the dollar value of the prizes.

(9) Cash received from bingo card sales will be controlled by using visual or kickout tape cash registers along with colored, double-roll, theater tickets, or pre-numbered, two-part guest checks. All bingo cards (regular, throw-away, or punch-out) will be pre-numbered.

(10) When theater-type tickets are used, the bingo cashier will give the purchaser a ticket (for the door prize) for each card purchased. One ticket color will represent cards selling for one price. When cards are sold in multiples at a special price, another color of ticket will be chosen and a ticket given for each card sold. The cashier will retain one ticket for control purposes and for use in door prize drawings. Bingo cards must be date-stamped.

(11) Within these policy parameters, commanding officers must be sensitive to local community perception and use proper judgement regarding the type and size of bingo prizes awarded.

2-4. Unauthorized Activities. The following functions/events are prohibited:

a. The sale and consumption of alcoholic and/or malt beverages at any civilian NAFI is prohibited without prior written authorization by the Chief of Naval Operations (NO9B). Requests for authorization will be submitted to NO9B through the chain of command and BUPERS (Pers-65). Reference (b) refers and if authorization is given, reference (h) applies.

b. Programs and activities, other than civilian MWR activities, authorized to be conducted or funded with appropriated funds (e.g., beautification and maintenance of grounds, non-MWR employee awards, etc.).

c. Gifts, gratuities, or special benefits to an individual other than as authorized in 2-2 above. Mass cash or gift "give-aways" to employees for private use is prohibited.

d. Participation in or support by the NAFI of charity drives and cooperative endeavors such as mutual aid, employee insurance or death benefit associations, other than authorized by the DON NAFI employee benefit programs. Such monetary participation is considered to be a private, personal matter of individual decision. (See para. 2-2n for authorized condolence contributions.)

e. Sale of lottery cards, "break-open" or instant bingo games, or other games of chance.

f. Certain types of entertainment as addressed in paragraph 4-7.

g. Emergency loans to Federal employees.

Chapter 3 - Financial Management

3-1. Financial Posture. Civilian MWR activities are required to be generally self-supporting, (i.e., largely dependent on nonappropriated funds for support). Generally, civilian MWR activities are entitled to very limited APF support (see paragraph 2-1). In order to ensure generation of adequate profits to help finance replacement of or additional equipment, upgrading of or additional facilities, expansion of retail inventory, etc., commands must closely and continuously review civilian NAFI cash, profit and loss, and pricing levels and revise as necessary to meet such requirements. Reference (i) provides policies and procedures for cost control. The food service portion of reference (j) provides guidance, methods, and forms that may be beneficial to civilian MWR food service operations.

3-2. Financial Management. In addition to the financial guidance provided in reference (b), civilian MWR activities will follow the guidance contained in the Financial Management Policies and Procedures for Morale, Welfare and Recreation Programs, NAVSO P-3530, reference (k). Chapter VIII of NAVSO P-3520 provides guidance for small NAFI activities. Budgets prepared in accordance with NAVSO P-3520 will be submitted with the recommendations of the advisory group/board of governors to the commanding officer for final approval. A copy of each approved civilian NAFI annual operating budget and capital expenditure budget will be forwarded to BUPERS (Pers-65) via the chain of command prior to commencement of the fiscal year involved.

3-3. Reporting and Analysis. Civilian MWR activities will submit a copy of their annual financial reports and MWR personnel strength reports (if applicable), to BUPERS (Pers-65) and the chain of command, at the end of the fiscal year. Additional guidelines regarding financial reports and payments to offset the program manager's responsibilities are contained in paragraph 3-4.

3-4. Funding of Program Managers' Responsibilities for Civilian MWR Activities. A source of funding is required to offset the program manager's responsibility for oversight of the civilian MWR program and to create a loan source for civilian MWR activities as required by DoD. The funding program to meet these requirements was developed in 1989 by representatives of echelon II commanders together with civilian MWR management officials and BUPERS (Pers-65) personnel, and subsequently approved by the Chief of Naval Personnel. The civilian MWR activities funding program is as follows:

18 JAN 1995

a. Large Civilian MWR Activities. Activities with cash on hand/income of more than \$100,000 per fiscal year are required to become part of the BUPERS (Pers-65) Central Banking System for Civilian Nonappropriated Fund Activities. Under the central banking system, BUPERS (Pers-65) acts as the bank and the system functions as follows:

(1) A central bank account at a commercial bank under contract with BUPERS (Pers-65) will be maintained and reconciled by BUPERS (Pers-65).

(2) Disbursement checks will be written by the activity, payable through the central account.

(3) A 3-month's supply of disbursement check stock will be issued to the activity by BUPERS (Pers-65).

(4) BUPERS (Pers-65) will open a local bank account for the activity to make deposits. This account will be maintained and reconciled by BUPERS (Pers-65). Any service charges levied by the bank for deposits, rolled coins, etc., will be paid by the activity.

(5) BUPERS (Pers-65) will transfer funds from the local account to the central account.

(6) BUPERS (Pers-65) will invest funds and return a percentage of the interest earned to the activity. The percentage of return will be targeted within three points of the going commercial interest rate. Activities investing larger amounts of cash will receive a higher return on their available funds. The portion retained by BUPERS (Pers-65) will be used to offset the program manager's cost of operations.

(7) Commands will submit quarterly financial statements to BUPERS (Pers-65) via the chain of command for those activities not on centralized accounting. Annual financial statements must be submitted within 45 days after the end of the fiscal year, and must be audited if required per reference (1).

(8) Activities may participate in BUPERS (Pers-65) Central Accounting System (RAMCAS) at no additional cost. This accounting system is fully integrated with the banking system and provides monthly financial statements to the second and third echelon commands, the commanding officer and the civilian MWR activity.

(9) For a minimum cost, civilian MWR activities can participate in BUPERS (Pers-65) military MWR funds payroll services. The contractor provides a full range of payroll services including W-2's, direct deposit, sick and annual leave report, signature-ready 941's, time card labels, check-signing, quarterly earnings records., etc.

b. Small Civilian Activities. Activities with cash on hand/income of less than \$100,000 per fiscal year who are not required to participate in the BUPERS (Pers-65) central banking system will:

(1) Maintain local bank accounts.

(2) Remit to BUPERS (Pers-65) an annual assessment to help defray the cost of the program manager's oversight responsibilities. The assessment is a sliding scale based upon total revenues generated by the activity during the fiscal year. Activities under \$2,500 annual revenue are exempt from the fee.

(3) Activities will submit quarterly financial statements to BUPERS (Pers-65) via the chain of command. Financial statement forms are available from BUPERS (Pers-651) and may be reproduced locally.

(4) Within 45 days following close of the fiscal year, activities will complete their annual financial statements and shall forward the annual statement together with a check based on the following scale:

<u>TOTAL REVENUES</u>			<u>TOTAL FEE</u>
\$ 0	-\$2.5K	=	\$ 0
2.5K	- <10K	=	100
10K	- <25K	=	150
25K	- <50K	=	175
50K	- <70K	=	200
70K	- <85K	=	250
85K	- <100K	=	300

(5) The financial statements and checks are to be sent to Bureau of Naval Personnel (Pers-651), Navy Department, Washington D.C. 20370-5651.

c. Large and Small Civilian MWR Activities

(1) Loans for equipment and minor renovations will be provided to qualifying civilian NAFIs out of available funds from the BUPERS (Pers-65) civilian NAF central fund. Loans will be interest free with second echelon commanders as guarantor. Term of loans will be no longer than five years. Requests for operational loans will not be considered. For more information on the civilian NAFI loan program, write to Civilian NAF Loan Program, Bureau of Naval Personnel (Pers-651), Navy Department, Washington, DC 20370-5651.

(2) Navy civilian NAFIs may lend money to other Navy civilian NAFIs subject to approval by the affected local commanding officers and Echelon 2 commanders who will be guarantors on any loans. Loans may be interest bearing or interest free as agreed upon between parties, with terms not exceeding five years.

(3) Travel and per diem for all BUPERS (Pers-65) on-site assist visits and consulting services to include operations, vending facility program, child care, accounting, personnel management, etc., shall be borne by the civilian MWR activity requesting the visit.

(4) Employer's share of any benefit program administered by BUPERS (Pers-65) will be borne by participating activity.

(5) Advance deposits for the cost of a trip/excursion that is conducted/sponsored by the civilian MWR activity are to be excluded from the calculation of revenues for the fiscal year.

3-5. Financial Ratio Analysis. There are three key financial ratios that can be quickly determined from balance sheet data:

a. Current Ratio. Divide current assets by current liabilities in order to measure the NAFI's ability to pay current obligations. Generally, a ratio of 2:1 or higher is an indication of a sound short-term financial position. A high current ratio may indicate that conversion of some current assets to fixed assets through the next capital expenditure budget is timely. The dollar amount by which current assets exceed current liabilities is referred to as "net working capital."

b. Acid Test Ratio. The measure of liquidity may be expressed as current assets minus inventories and prepaid expenses over current liabilities. As a numerical relationship it is termed the

acid test or "quick ratio", and a ratio of 1:1 or better is considered satisfactory. It is a reflection of the NAFI's true liquidity and ability to pay creditors quickly. The acid test ratio is applied, for example, in determining whether a food service dividend will be paid for a loss month. Civilian MWR custodians and advisory councils must closely monitor.

c. Fund Equity Ratio. The net amount resulting from subtracting the NAFI's total liabilities from its total assets represents its financial worth. The ratio of fund equity to total assets is another measurement. A growth in equity is necessary to stability and is another indication of financial health. Custodians must be alert to a trend of fund equity decreases. For example, a more rapid rate of liability increases than asset increases will act to decrease fund equity. Timely management corrections must be made to reverse such unfavorable trends.

3-6. Audits and Fiscal Oversight. Reference (b) states that for civilian MWR activities with annual gross revenues of \$250,000 or more, independent audits shall be performed at nonappropriated fund expense by licensed certified public accountants (CPAs) or by appropriated fund personnel on a reimbursable basis. When non-Federal auditors (CPAs) are used, requests for contracts are to be coordinated with and approved by the Naval Audit Service before issuing a solicitation package. Commands with civilian MWR activities with annual gross revenues of \$250,000 or more should ensure that proposed contracts for non-Federal (CPA) auditing services are coordinated and approved. Also, commands must request pre-acceptance review by the Auditor General of the Navy for work completed under contracts with non-Federal auditors before making final contract payment. Civilian MWR activities also are to be included in the local command's fiscal oversight and review program. Reference (1) applies.

3-7. Prompt Payment of Accounts. The provisions of OMB Circular A-125 (Prompt Payment Act) are applicable to all agencies of the Federal Government, including civilian NAFIs. The law and the circular require Federal agencies to pay interest penalties when certain payments are made late, and pay similar penalties when prompt payment discounts are taken after the offered discount period has lapsed. Guidance on the Prompt Payment Act is contained in reference (m).

3-8. Insurance. Personnel responsible for the custody of civilian MWR nonappropriated funds must be bonded. In addition, civilian NAFIs must have insurance for the following:

a. Furniture, fixtures and equipment recorded on property control records.

b. Merchandise inventory.

c. Vehicles.

d. Liability. Minimum limits are \$500,000 per person, \$1,000,000 per occurrence in accordance with reference (n).

e. Money and Securities

(1) Contractors are responsible for general liability and worker's compensation coverage as it applies to their operations and their employees.

(2) Fund custodians should periodically review current insurance policies to ensure coverage, limits, deductibles and conditions adequately apply to the operation of the civilian NAFI.

3-9. Insurance Claims Procedures

a. If the civilian NAFI participates in the BUPERS self-insurance program, claims for damage to or loss of NAFI property and NAFI-owned money and securities can be made directly to BUPERS (Pers-653). Claims should indicate information as to what, when, where and how the loss occurred. The claim letter should also contain supporting documentation or "proof of loss" information, as well as the point of contact.

b. Potential liability claims should be directed to the claims officer of the Naval Legal Service Office (NLSO) that supports the activity. The claims officer will provide the claimant with the appropriate claim form to initiate either a general or automobile liability claim. Either the NLSO or the Judge Advocate General's Office will adjudicate the claim, and either deny or approve the claim for payment. Payment will be made by BUPERS (Pers-653) upon receipt of recommendation for payment.

c. If the insurance coverage is provided by a commercial insurance company, notice of an accident or incident that may result in either a property or liability claim or both, must be provided to the company immediately. Also, the activity legal officer and the NLSO claims officer should be advised of the accident or incident and that a potential claim may arise from the accident/incident.

3-10. Nonappropriated Fund Fiduciary Responsibility.

a. Civilian NAFs are government funds entitled to the same protection as funds of the U.S. Treasury. NAFs are designated for the benefit of authorized patrons and the purposes of the civilian NAFI.

b. There is an individual fiduciary responsibility for properly using all NAFs and preventing waste, loss, or unauthorized use. This responsibility extends to all Department of Defense personnel, to include members of the Armed Forces and civilian employees paid with either appropriated or non-appropriated funds.

c. The Department of Navy policy is to encourage the reporting of suspected violations at the lowest possible organizational level. However, reports may be made to senior management, the Inspector General, or to the Defense Hotline. The chain of command is responsible for prompt detection, proper investigation, and appropriate corrective action. Individuals reporting violations are protected from reprisal.

d. Commanders will take appropriate administrative, disciplinary, or non-judicial action against present and former personnel responsible for violations. In case of a serious criminal infraction, commanders will refer the matter promptly to the appropriate criminal investigative organization for investigation and referral to judicial authorities.

e. Under Chapter 147 of title 10, United States Code, personnel who violate NAF regulations are subject to penalties. Penalties for substantial NAF violations by civilian employees are the same as those under provisions of Federal law that govern the misuse of appropriated funds. Violations by personnel subject to the Uniform Code of Military Justice are punishable under section 892, article 92.

Chapter 4 - General Support

4-1. Personnel. Personnel management for nonappropriated fund employees of civilian MWR activities will be administered in accordance with the provisions of references (c) and (d).

4-2. Standards of Conduct. The Standards of Conduct set forth in reference (g), required of Federal employees including NAFI employees, are directed toward the elimination of fraud, waste, and abuse. These standards apply to the operation of all civilian MWR activities especially with regard to financial transactions in resale operations.

4-3. Training. Commands are authorized to fund training costs for NAF purposes and the travel and per diem costs of employees to obtain training. Individual training is continuous and inherent to successful day-to-day operations. Training programs should emphasize the practical aspects of the actual jobs. A comparison of post-training and pre-training job performance is the best measurement as to whether the training has been successful.

4-4. Membership in Professional Associations. Professional or trade association memberships in the name of the civilian NAFI or a position within the NAFI (e.g., "Food Service Manager") may be paid by the civilian NAFI. Membership may not be in the name of an individual.

4-5. Procurement Policies. Procurement policies and procedures are contained in references (f) and (k). Navy civilian MWR activities can also use the Air Force Nonappropriated Funds Purchasing Office (AFNAFPO) located at Randolph Air Force Base, TX. For more information on AFNAFPO, contact BUPERS (Pers-651).

4-6. Civilian MWR Vehicles. The administration and operation of all MWR vehicles is a command function. Additional information regarding civilian MWR vehicles is contained in reference (o).

4-7. Entertainment. Entertainment will conform to appropriate standards of discretion, modesty and good taste, whether contracted directly by the management or by individuals booking private parties. Regardless of the type of entertainment that may be offered in the local community, it is not in the best interest of the Navy to allow standards of taste in entertainment to seek their own level on the assumption that anything that people desire is allowable. Entertainment should be suitable for a typical mixed community audience. Female/male nude/partially nude dancers are prohibited. Entertainment that could conceivably result in

BUPERSINST 12990.1

18 JAN 1995

embarrassment to the Department of the Navy shall be avoided. The audience composition and potential media reaction must be considered in selecting entertainment. Appendix B contains additional guidelines and a sample entertainment contract.

APPENDIX A

**TRIENNIAL REVIEW OF CIVILIAN MWR ACTIVITIES
(PLEASE COMPLETE ONE FORM FOR EACH CIVILIAN NAFI)**

Name of
Command: _____

Type of civilian NAFI: Cafeteria _____ Recreation _____

Point of Contact: _____

Telephone No. (DSN) _____ (Commercial) _____

Major Claimant: _____ Date prepared: _____

1. GENERAL

a. Purpose of the NAFI:

b. Based on availability of existing military MWR programs and adequacy of off-base recreation/food service programs, does the need for this NAFI still exist?

c. List the types of MWR activities conducted by NAFI (i.e., types of sports, social/recreational programs, food service operations, etc.)

d. Sources of NAF income, (i.e., cafeteria operations, vending machine commissions, bake sales, trips, etc.)

e. Number of civilian employees served:

Parent Command_____ Tenant commands
(Note: Also indicate number of military if there is no military MWR
available .)

f. Indicate the number of employees of the civilian NAFI.

Full time Part time

None_____

g. Indicate amount of appropriated funds (APF) provided the
civilian NAFI, (indicate facilities and the amount of APF support
received during last fiscal year for each facility, e.g., amount of
utilities/maintenance not subject to reimbursement etc.)

2. CAFETERIA OPERATIONS

a. Please indicate all services provided:

Breakfast Dinner
Lunch On-base catering
Other, (i.e., food service to night shifts, etc.) Please
specify:

b. Indicate number and size of facilities:

	<u>Seats</u>	<u>Approx. Sq. Feet</u>
Cafeteria		=====
Snackbars_____	=====	=====
Canteens_____		=====
Mobile Canteens_____		

c. If cafeteria is a contract operation, please provide the
name of the contracting firm:

d. When does the present contract expire?_____

How many option years remain?_____

e. If cafeteria is operated in-house, please provide the name of the manager_____

3. VENDING MACHINE OPERATIONS

a. Machines are operated: in-house_____; by Navy Exchange_____; by contractor_____.

b. Is vending tied into a cafeteria contract?_____

c. Number and type of machines involved (i.e., soda, candy, snacks, etc.):_____

d. Amount of income from vending last fiscal year:

FY-____ Amount received: \$_____

e. Amount paid the state agency for the blind in accordance with Vending Facility Program for the Blind (OPNAVINST 4534.1) during last fiscal year.

FY-____ Amount paid: \$_____

APPENDIX B

SAMPLE ENTERTAINMENT CONTRACT

1. This contract is entered into as of _____ 19____, by and between the U. S. Navy (Name of Activity) located at _____ and hereinafter called the NAFI, by and through its duly authorized Contracting Officer and (Name of Group Leader), hereinafter called the Contractor, by and through its duly authorized agent or person authorized to contract for said group or leader. It is agreed that all payment for services rendered will be made payable to _____.

2. The specific time and place for the performance of this contract are (Hour) to (Hour) hours, (Date) at (Name of NAFI) located at (Location).

3. The nature of the services to be performed and/or furnished by the contractor is entertainment consisting of (No.) act(s) composed of (one person) (a group of (No.) persons) as follows: (Singers, Instrumentalists, Name Entertainers, etc.). The specific type of entertainment to be furnished by the contractor is _____.

4. Payment for the services to be rendered hereunder shall be made by the Contracting Officer or a designee in lump sum in the amount of (Written) dollars (\$_____), within _____ days after the completion of said services or (Specify Other Arrangements). Payment shall be by a check signed by the treasurer of the NAFI and shall be payable only after approval by the Contracting Officer or a designee attesting that the said services have been satisfactorily rendered. The NAFI is under no obligation to cash the check. Payment shall be made to the leader of the group if more than one person is required for the services hereunder, and payment in full to the leader shall satisfy the total responsibility of the civilian NAFI to the individual musicians. The amount specified in this paragraph is the total sum for which the NAFI shall be liable to the leader and musicians hereunder. No other remuneration in the form of transportation, food, or lodging is included unless made a part of this contract.

5. The musicians are engaged severally under the terms and conditions on the face thereof. The contractor represents that the musicians already designated have agreed to be bound by said terms and conditions. Each musician yet to be chosen, upon acceptance, shall be bound by said terms and conditions. Each musician may enforce this agreement. The musicians severally agree to render services under the leader.

6. Definitions: (a) As used in this contract, the term "Contracting Officer" means the person executing or administering the contract on behalf of the nonappropriated fund which is a party hereto, or "that person's" successor or successors. (b) As used in this contract, the term "contractor" means the leader or other person executing this contract on behalf of the entertainers who are parties to this contract.

7. Nonappropriated Fund Instrumentality (NAFI) -- an instrumentality of the U.S. Government. However, no appropriated funds of the U.S. shall become due or be paid by reason of this contract.

8. Equal opportunity for employees and applicants for employment by the contractor will be governed by the equal opportunity clause attached hereto as EXHIBIT A and made a part hereof.

9. The contracting officer shall at all times have complete supervision, direction, and control over the services of musicians on this engagement and expressly reserves the right to control the manner, means, and details of the performance of services by the musicians, including the leader, as well as the ends to be accomplished. If any musicians have not been chosen upon the signing of this contract, the contractor shall, consistent with any instructions of the contracting officer, hire such persons and any replacements as are required.

10. The leader and each musician shall at all times while on (Name of Station), conduct themselves in a proper, acceptable manner and shall observe all rules and regulations of the Commanding Officer, (Name of Station) and the U.S. The leader shall, at the direction of the contracting officer, enforce disciplinary measures for just cause.

11. None of the persons hired hereunder will enter into any subcontract for performance of the services they are to render hereunder without the written consent of the contracting officer.

12. Disputes

a. Except as otherwise provided in this contract, any dispute concerning a question of fact arising under this contract which is not disposed of by agreement shall be decided by the contracting officer, who shall reduce that decision to writing and mail or otherwise furnish a copy thereof to the contractor. The decision of the contracting officer shall be final and conclusive unless within 30 days from the date of receipt of such copy, the contractor mails or otherwise furnishes to the contracting officer a written appeal addressed to the Armed Services Board of Contract Appeals. The decision of the board shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. In connection with any appeal proceeding under this clause, the contractor shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the contractor shall proceed diligently with the performance of the contract and in accordance with the contracting officer's decision.

b. This "disputes" clause does not preclude consideration of law questions in connection with decisions provided for in paragraph a above: Provided that nothing in this contract shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

13. Conduct. The leader will ensure that the following conditions are met by all musicians prior to, during, and after the engagement while within the premises of the place of performance (contracting officer will insert here items that may be covered: drinking or smoking on stage; use of the NAFI facilities - dining room and bar; bringing guests into NAFI for socializing - managers, relatives, etc.).

14. The agreement of the leader and musicians to perform is subject to proven detention by sudden, serious illness, accidents, riots, strikes, threatened epidemics, Acts of God, or any other legitimate conditions completely beyond their control. This contract may be terminated by the contracting officer, without notice, (a) in the event of riots, threatened epidemics, Acts of God, or any unforeseen occurrence which makes it impossible for the NAFI to provide a facility for the presentation of the entertainment which is the subject of this contract; (b) in the event that the (Name of

18 JAN 1995

Station) or its successor is deactivated; (c) in the event that the NAFI or its successor(s) should by directive of higher headquarters cease to operate; or (d) in the event that the requirements of paragraph 2 of this contract are not met. The following conduct while on the Navy installation on the part of the leader or a musician shall likewise be grounds for termination of this contract: theft, tardiness preventing timely starting of the performance hereunder, indecency or obscenity, drunkenness, being under the influence of narcotics or hallucinatory drugs, absence without good cause, or such violation of the rules and regulations of the commanding officer (Name of Station) or the U. S. Navy, as threaten a breach of national security. This contract (may not be otherwise terminated) (may be terminated at the option of either party with _____ days notice to the other). Notice by or to the leader shall constitute notice by or to each of the musicians. In the event this contract is terminated or performance is excused, for any of the reasons specified in this paragraph, no money shall be due or payable by the NAFI by reason of this contract.

15. This contract can be amended, supplemented, or modified only by supplemental agreement in writing and signed by both parties.

16. Indemnity

The contractor agrees to indemnify and hold harmless the U. S. Government (including its agencies and instrumentalities, their officers, agents and employees) against liability (including liability for infringement of any patent, copyright, trademark, licensing, royalty, or other right asserted by any third party with respect to entertainment performed or provided, or any part thereof, consisting of or including works of authorship or copyrightable or other works, whether musical works, including words, dramatic works, sound recordings, or otherwise, under state, federal or other applicable law), and against any and all claims or judgments for loss, death, injury or property damage (including costs and expenses incidental thereto) arising out of or in connection with (i) the furnishing by the contractor of any entertainment which is subject to copyright, licensing, royalty, or other rights or requirements, and which is called for under this contract, (ii) any of the actions or activities of the contractor's subcontractors, representatives, agents or employees while performing this contract, or (iii) any of the contractor's actions or activities. Nothing hereinabove contained shall, however, relieve or be construed as relieving the U. S. Government (including its agencies and instrumentalities, and their officers, agents, and employees) from any liability growing out of their negligence, nor shall anything contained hereinabove

this paragraph be construed as an assumption of indemnification on the part of the contractor as against any such liability arising from or growing out of any such negligence.

17. Use of Copyrighted Material

The contractor shall make appropriate payments, or obtain and be solely responsible for, appropriate licenses or releases, from holders of copyrighted protected musical or entertainment works, in conjunction with the services rendered under this contract.

18. Optional Clauses

a. No performance of the engagement shall be recorded, reproduced, or transmitted from the place of performance, in any manner or by any means whatsoever, in the absence of a specific written agreement with (person or organization designated by the Contractor) relating to and permitting each recording, reproduction or transmission.

b. Representatives of (labor organization) shall have access to the place of performance for the purpose of conferring with their members, consistent with applicable rules and regulations of the commanding officer, (Name of Station), and the U.S. Navy.

For the NAFI _____	For the Contractor _____
_____ (Print Name of Rep)	_____ (Print Name of Rep.)
_____ (Tel. No.)	_____ (Tel. No.)
_____ (Signature-Rep)	_____ (Signature-Rep)
_____ (Date)	_____ (Date)

BUPERSINST 12990.1

18 JAN 1995

(Street Address)

(City, State, Zip)

All terms of contract fulfilled and performance accomplished.
Payment is authorized in accordance with paragraph 4 above.

Fund Manager (Treasurer) Date

EXHIBIT A

EQUAL OPPORTUNITY CLAUSE FOR ENTERTAINMENT CONTRACTS

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

(3) The contractor will send to each labor union or representative of workers holding a collective bargaining agreement or other contractor or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under this equal opportunity clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375 of October 13, 1967, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375 of October 13, 1967, and by the rules, regulations, and orders of the Secretary of Labor or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

(6) In the event of the contractor's noncompliance with the equal opportunity clause of this contract or with any of said rules, regulations, or orders, this contract may be cancelled, terminated or suspended in whole or in part, and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375 of October 13, 1967, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965 as amended by Executive Order 11375 of October 13, 1967, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375 of October 13, 1967 so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the U. S. to enter into such litigation to protect the interests of the U. S.

APPENDIX C

**CONTRACTING AND ACCOUNTING PROCEDURES
FOR VENDING MACHINES**

SAMPLE CONTRACT

1. The attached sample contract contains recommended provisions considered desirable for procurement of vending machines/services by Navy civilian NAFIs.
2. The sample has been annotated with explanatory remarks in parentheses. These notes should not appear in actual procurement documents. In paragraph 8 COMPENSATION, the parties may agree to a fixed percentage commission of gross sales rather than the itemized price less cost difference as shown. The contract should be written accordingly.
3. Standard Form 33 is recommended since it can serve as both a request for proposal and a contract award document. Small numbers of these forms can generally be obtained from the base procurement office on an installation. SF 33a must also be included as part of the award document if it is utilized in the solicitation.
4. Provisions are subject to minor modification if necessary to suit local circumstances. Contractor requests for deletion or major modification of any of these provision should be referred to BUPERS (Pers-65) for approval.

SAMPLE CONTRACT FOR VENDING SERVICES

1. This contract is entered into as of (Date) 19____, between the U.S. Navy (Name of Civilian NAFI), hereinafter called the NAFI, by and through its duly authorized contracting officer and (Name of Vending Company), hereinafter called the contractor, by and through its duly authorized agent or person authorized to contract for said contractor.

2. SCOPE

The contractor shall provide the NAFI with vending machines in such number and at such locations as shall be designated by the NAFI during the period of the contract. The parties shall jointly determine service schedules, machine replacement or rotation as appropriate. The machines will be adequately supplied and serviced by the contractor. All products provided to the NAFI for sale through the machines shall remain at all times until vended, the property of the contractor.

3. KEY CONTROLS

Each machine is to be delivered with two keys, one controlling access to the working mechanism and the other to the cash box alone. Both keys shall be delivered to the contracting officer at the time of machine installation. The keys will remain with the contracting officer or with a designated custodian except when logged out by the cash verifier. Working mechanism access key may be logged out separately to contractor's service personnel but at no time shall either the contractor or his representative, or the cash verifier be alone in sole possession of both keys.

4. RISK OF LOSS

The NAFI assumes any loss resulting from the use of slugs or foreign coins, as well as any loss resulting from pilferage or destruction, provided however, that the contractor shall not be relieved of liability for its negligence, or for the negligence of its employees. The contractor assumes, and shall reimburse the NAFI for, any loss resulting from equipment malfunctions which permit a machine to operate without deposit of payment or which prevent a machine from operating after it has accepted payment.

5. CHANGE BANKS

All funds required to establish change banks in vending machines to levels prescribed by the contracting officer are funds of the NAFI and will be furnished to the contractor by the NAFI. The contractor shall not use these funds for any purpose other than as change bank funds which must be placed in the change banks of the machines. Upon expiration of the contract, all such change funds shall be returned to the NAFI by the contractor.

6. COLLECTION OF SALES RECEIPTS

Each participating activity will, in writing, appoint one qualified cash verifier and one alternate cash verifier. All coin collection will be made by the contractor during normal working hours on a pre-coordinated basis, accompanied and supervised by the cash verifier, subject to such internal controls as may be prescribed by the NAFI. The contractor is required to furnish one coin denomination separator and counting machine for making all collections at each participating installation.

7. REPORTING AND SETTLEMENT OF ACCOUNTS

The contractor shall, simultaneously with each collection, furnish the NAFI with a written report thereof, in a form satisfactory to the contracting officer, itemizing collections separately for each machine and building location and verified by the designated cash verifier. The parties shall mutually agree on the time or times when settlement of accounts shall be made, but in no event, with or without such agreement, shall such settlement be made less frequently than once each month.

8. COMPENSATION

The following amounts due shall be accepted by the parties as full compensation for the use by the NAFI of the machines, for the purchase price of the product dispensed, for all services performed by the contractor, and for reimbursement for all costs incurred by the contractor, and shall be according to the following cost/price structure. The difference between the selling price and the cost per unit shall accrue to the NAFI.

<u>Product(s) Sold</u> (description of each product to be sold)	<u>Cost per Unit</u> (includes all charges payable to contractor)	<u>Selling Price</u> (established by the NAFI)
--	---	--

9. SPECIFICATION

The specification, quantity, and location of the vending machines to be furnished hereunder are stated in the following schedule of equipment:

Type of Unit	Quantity	Location
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

10. TITLE AND RISK OF LOSS

Unless specifically provided elsewhere in this contract, title to the vending machines, machine components, including replacement parts, etc., shall remain with the contractor. The contractor assumes full risk and responsibility for any loss or damage occurring to said machines and components, except as may be attributable to the NAFI by reason of negligence of its officers, agents, or employees.

11. INSTALLATION

All vending machines in the types and quantities specified shall be delivered, installed, and bolted in place as directed by the contracting officer in accordance with applicable national and local codes and in compliance with all safety and security measures required by the contracting officer.

12. SPACE, UTILITIES, AND STORAGE

The contractor shall not be required to pay any rental for the space occupied by the vending machines furnished hereunder when in use on the premise where installed. The contractor shall not be required to pay the cost of any utilities which may be found necessary for the use or operation of any vending machines furnished hereunder. The contractor shall not be required to pay for any building alteration costs, remodeling, painting, or the installation of utilities that may be required for the operation of vending machines. However, the contractor is not authorized to make any improvements or alterations to the space or to the facilities in which the machines are installed. Upon request of the contractor and sufficient justification appearing therefor, the activity manager may supply space, if available, for the storage of contractor's property. Except for the willful misconduct or gross negligence of the employees of the activity, the activity shall not be responsible for the safety of the contractor's property so stored. The contractor shall not be required to pay rent for any spaces occupied by its products on the military installation. In the event of termination or cancellation of this contract as herein provided, the contractor shall remove all its property, at its expense, and upon its failure to do so, the contracting officer may remove and store said property, and charge the contractor for any expenses incurred for such removal and storage.

13. SERVICE AND MAINTENANCE

The contractor, at his own expense, shall keep all equipment required to be provided under the contract, including any meters and special attachments thereto, in proper working order and will accomplish all repair work within four (4) hours after receipt of notification or discovery of any breakdown. Breakdowns reported on weekends, holidays or after the contractor's normal working hours will be repaired within four (4) hours after the start of the next working day.

14. EMPLOYEES OF THE CONTRACTOR

All employees of the contractor employed in the performance of work under this contract shall be employees of the contractor at all times and not of the U. S. Government, its agencies or instrumentalities. The contractor shall comply with the Social Security Act, the Longshoremen's and Harbor Worker's Compensation Act, and such workers compensation and unemployment insurance laws

of the state where the work is performed as shall be applicable to the work performed hereunder. The contractor shall comply with all other relevant legislation, state and Federal. When on the military installation, employees of the contractor shall at all times conduct themselves in an orderly and proper manner and maintain a presentable appearance and a courteous attitude. The contracting officer may require the contractor to remove from the job employees whose conduct does not meet such standards or is inconsistent with the interests of military security. Contractor agrees that in the performance of work under this contract there will be no discrimination against any employee or applicant for employment because of race, creed, color, sex, or national origin.

15. CONTRACTORS WARRANTY

The contractor warrants that:

a. The supplies furnished will be fit and sufficient for the use intended and are not "seconds" as the term is normally understood in the trade. This warranty will survive acceptance of the supplies, and is in addition to other warranties of additional scope given by the contractor hereunder.

b. The supplies and services will comply with all applicable state and Federal laws and regulations, together with all safety, noise emission, or other standards promulgated thereunder or otherwise provided, as well as with all testing, safety certification, record keeping, and labeling requirements.

c. The contractor will not represent in any manner, expressly or by implication, that the supplies or services furnished hereunder are approved or endorsed by the Department of the Navy, or any part thereof. Any advertisements, including cents-off coupons, by the vendor which refer to a Navy instrumentality will contain a statement that the advertisement was neither paid for nor sponsored, in whole or in part, by the Department of the Navy, or any part thereof.

16. COMMERCIAL WARRANT

To the extent that supplies or services of a commercial nature are furnished under this contract, the contractor agrees that such supplies or services shall be covered by the most favorable commercial warranties extended to any customer for similar supplies

or services. It is further agreed that the rights and remedies provided by this clause are in addition to and do not limit any rights afforded to the NAFI by law or by any other clause of this contract.

17. INDEMNITY

The contractor agrees to indemnify and hold harmless the U. S. Government (including its agencies and instrumentalities, their officers, agents and employees) against liability (including liability for infringement of any patent, copyright, trademark, licensing, royalty, or other right asserted by any third party with respect to entertainment performed or provided, or any part thereof, consisting of or including works of authorship or copyrightable or other works, whether musical works, including words, dramatic works, sound recordings, or otherwise, under state, federal or other applicable law), and against any and all claims or judgments for loss, death, injury or property damage (including costs and expenses incidental thereto) arising out of or in connection with (i) the furnishing by the contractor of any entertainment which is subject to copyright, licensing, royalty, or other rights or requirements, and which is called for under this contract, (ii) any of the actions or activities of the contractor's subcontractors, representatives, agents or employees while performing this contract, or (iii) any of the contractor's actions or activities. Nothing hereinabove contained shall, however, relieve or be construed as relieving the U. S. Government (including its agencies and instrumentalities, and their officers, agents, and employees) from any liability growing out of their negligence, nor shall anything contained hereinabove this paragraph be construed as an assumption of indemnification on the part of the contractor as against any such liability arising from or growing out of any such negligence.

18. USE OF COPYRIGHTED MATERIAL

The contractor shall make appropriate payments, or obtain and be solely responsible for, appropriate licenses or releases, from holders of copyright protected musical or entertainment works, in conjunction with the services rendered under this contract.

18 JAN 1995

19. INSURANCE

a. The contractor will, at his own expense, procure and maintain during the entire period of performance of this contract insurance of at least the kinds and minimum amounts set forth below.

TYPE	AMOUNT
Workers compensation & employee liability	(Benefits as established by State in which contract is performed)
General liability	Bodily injury \$500,000 per person \$1,000,000 per accident
	Property damage \$100,000 per accident
Automobile liability	Bodily injury \$500,000 per person
	\$1,000,000 per accident
	Property damage \$100,000 per accident

b. At all times the contractor shall maintain with the contracting officer a current certificate of insurance showing at least the insurance required herein, and providing for thirty (30) days written notice to the contracting officer by the insurance company prior to cancellation or material change in policy coverage.

c. The contractor shall also require all first-tier subcontractors who will perform work on a U. S. Government installation to procure and maintain the insurance required herein during the entire period of their performance. The contractor shall furnish (or assure that there has been furnished) to the contracting officer a current certificate of insurance meeting the requirements above for each such first-tier subcontractor, at least five (5) days

prior to entry of each such subcontractor's personnel on the U. S. Government installation.

20. OFFICE OF PRIMARY CONTRACT ADMINISTRATION

(Name and address of administrator of funds) is responsible for the overall administration of this contract. Modifications to this contract must be made in writing and will not become effective until approved in writing by the contracting officer.

21. TERM OF CONTRACT

The contract shall continue for a period of twelve (12) months from the effective date unless sooner terminated as provided herein.

22. OPTION TO EXTEND

The contract may be renewed for a period of twelve (12) months upon mutual agreement of the parties hereto. Extension shall be limited to a maximum of four (4) times, totalling five (5) years maximum.

23. SUBCONTRACTING

This contract or any part thereof may not be subcontracted without the prior written approval of the contracting officer.

24. TERMINATION FOR CONVENIENCE

The contracting officer, by written notice, may terminate this contract in whole or in part when it is in the best interest of the NAFI. If this contract is for supplies and is so terminated, the contractor shall be compensated in accordance with FAR Subparts 49.1 and 49.2 in effect on the date of this contract. To the extent that this contract is for services and is so terminated, the NAFI shall be liable only for payment in accordance with the payment provisions of this contract for services rendered prior to the effective date of termination, providing there are no contractor claims covering nonrecurring costs for capital investment. If there are any such contractor claims, they shall be settled in accordance with FAR Subparts 49.1 and 49.2.

18 JAN 1995

25. TERMINATION FOR DEFAULT

The contracting officer, by written notice, may terminate this contract in whole or in part for failure of the contractor to perform any of the provisions hereof. In such event the contractor shall be liable for damages including the excess cost of reprocurring similar supplies or services; provided that, if (i) it is determined for any reason that the contractor was not in default; or (ii) the contractor's failure to perform is without his or her, or his or her subcontractor's control, fault, or negligence, the termination must be deemed to be a termination for convenience. As used in this provision, the term "subcontractor" means subcontractor at any tier.